

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ALAN HARRY, LEVANTE CAPITAL, LLC, and  
PUBLIC UTILITY DISTRICT NO. 1 OF CLARK  
COUNTY, WASHINGTON (D/B/A CLARK  
PUBLIC UTILITIES), on behalf of themselves and  
all others similarly situated,

Plaintiffs,

vs.

TOTAL GAS & POWER NORTH AMERICA,  
INC. and JOHN DOES 1-50,

Defendants.

No. 1:15-cv-09689

**NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Plaintiffs Alan Harry, Levante Capital, LLC, and Public Utility District No. 1 of Clark County, Washington (d/b/a Clark Public Utilities), on behalf of themselves and all others similarly situated, appeals to the United States Court of Appeals for the Second Circuit from: (1) the opinion and order granting Defendants' motion to dismiss Plaintiffs' Consolidated Amended Class Action Complaint with prejudice (ECF No. 109, docketed March 27, 2017); and (2) the judgment (ECF No. 110, docketed March 27, 2017).

Dated: April 24, 2017

**KIRBY McINERNEY LLP**

By: /s/ David E. Kovel

David E. Kovel  
Thomas W. Elrod  
dkovel@kmlp.com  
telrod@kmlp.com  
825 Third Avenue, 16th Floor  
New York, NY 10022  
Telephone: (212) 371-6600  
Facsimile: (212) 751-2540

**ROBINS KAPLAN LLP**

Hollis Salzman  
Kellie Lerner  
Bernard Persky  
hsalzman@robinskaplan.com  
klerner@robinskaplan.com  
bpersky@robinskaplan.com  
399 Park Avenue, Suite 3600  
New York, NY 10022  
Telephone: (212) 980-7400  
Facsimile: (212) 980-7499

K. Craig Wildfang  
kcwildfang@robinskaplan.com  
800 LaSalle Avenue, Suite 2800  
Minneapolis, MN 55402  
Telephone: (612) 349-8500  
Facsimile: (612) 339-4181

**CAFFERTY CLOBES MERIWETHER AND  
SPRENGEL LLP**

Anthony F. Fata  
Jennifer W. Sprengel  
Daniel O. Herrera  
afata@caffertyclobes.com  
jsprengel@caffertyclobes.com  
dherrera@caffertyclobes.com  
150 S. Wacker Dr., Suite 3000  
Chicago, IL 60606  
Telephone: (312) 782-4880  
Facsimile: (312) 782-4485

**COHEN MILSTEIN SELLERS & TOLL PLLC**

J. Douglas Richards  
Michael Eisenkraft  
drichards@cohenmilstein.com  
meisenkraft@cohenmilstein.com  
88 Pine Street, 14th Floor  
New York, NY 10005  
Telephone: (212) 838-0177  
Facsimile: (212) 838-7745

Times Wang  
twang@cohenmilstein.com  
1100 New York Avenue, Suite 500  
Washington, DC 20001

Telephone: (202) 408-4600

Facsimile: (202) 408-4699

*Co-Lead Counsel*

Steven R. Goldberg, Esq.  
225 Liberty Street, Suite 1020A  
New York, New York 10281  
sgoldberg@srglaw.nyc  
Telephone: 212-845-5100  
Facsimile: 212-845-4197

*Counsel for Plaintiffs and the Proposed Class*

**NOTICE OF COMPLIANCE WITH F.R.A.P. 3(a)(1)**

In compliance with Rule 3(a)(1) of the Federal Rules of Appellate Procedure, the foregoing Notice of Appeal and three copies have been mailed to the Clerk of Court to enable the clerk to comply with Rule 3(d). Copies will also be served on all counsel of record through the Court's CM/ECF system.

/s/ David E. Kovel

David E. Kovel